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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,049

08/22/2003

Erby Paul

NNY2473

8545

7590

05/24/2004

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EXAMINER

LEE, Y MY QUACH

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/646,049

Applicant(s)

PAUL, ERBY

Examiner

Y Quach Lee

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 10-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***DETAILED ACTION***

#### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 8, line 7, the reference numeral "48" is incorrect and should be changed to --50-- in view of "the switch hole 50" on line 16 of page 7 and drawing figure 1. Appropriate correction is required.

#### ***Claim Objections***

2. Claims 6 to 16 are objected to because of the following formalities: In claim 6, line 2, the term "a front" and "a rear" should be changed to --said front-- and --said rear-- in order to properly further limit the subject matter of previous claim 1. Note the language "a headband having a front and a rear" on line 2 of claim 1. Claim 7 depends on objected claim 6 and as such is also objected. In claim 8, there is no clear antecedent basis for "said side". Note the "opposing sides" on line 2 of claim 8. In claim 9, there are no clear antecedent bases for "said middle" and "said vertical portion". In claim 10, there is no clear antecedent basis for "said side". Note the "opposing sides" on line 3 of claim 10. In claim 12, there is no clear antecedent basis for "said side". Note the "opposing sides" on line 3 of claim 10. Claims 11 and 13 to 16 depend on objected claim 10 and as such are also objected. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 to 4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace.

Wallace shows a head mounted light comprising a headband (20) having a front, a top, and a rear, a lens assembly (40) connected to the front of the headband, a light transmitter (70), which is a fiber optic cable, having opposing ends with one end connected to the lens assembly, a light source comprising a light emitter such as a light bulb (106) connected to a power source (column 4, line 10) and connected to the opposing end of the light transmitter, and a clip (26B) attached to a middle of a vertical portion (26).

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace.

Wallace discloses the invention substantially as claimed with the exception of having the power source consisting of batteries and fuel cells. It should be noted that power source such as batteries, fuel cells and power line are interchangeable or can also be used alternatively. It would have been obvious to one skilled in the art to which the subject matter pertains to use the batteries or fuel cells in place of the power line of Wallace to not only allow the user to move freely to any location as desired without any need to maintain a connection of the head mounted light to a power line but to also allow the head mounted light to have the ability to operate regardless of a power failure.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace.

Wallace discloses the invention substantially as claimed with the exception of having the opposing ends of the vertical section attached to the front and rear of the horizontal portion. To attach the opposing ends of the vertical portion to the front and rear would have been an obvious matter of design choice since such a modification would have involved a mere change in the attaching arrangement of a component which provides no unusual, unobvious, and/or unexpected result and is therefore deemed to fall within a purview of an ordinary engineering design technique to attach the opposing ends of the vertical portion to any desired location of the horizontal portion including the front and rear of the horizontal portion for suitable comfort.

8. Claims 7 and 8 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 10 to 16 would be allowable if rewritten or amended to overcome the objection set forth in this Office action.

10. Claims 17 to 20 are allowed.

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**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith is cited to show other pertinent head band having a horizontal portion and a vertical portion including opposing ends connected to the front and rear of the horizontal portion with a rechargeable battery inside a battery housing for connecting to a light source mounted on the head band and connecting to a belt and having a switch hole for receiving an on/off switch. Feinbloom is cited to show other pertinent head mounted light including a friction lock mechanism attached to the rear of a horizontal portion of a headband with a lens assembly attached to the front of the horizontal portion for connecting to a fiber optic cable light transmitter. Meyer et al. is cited to show a belt having opposing ends and a middle attached to opposite sides of a pouch for receiving a battery housing connecting to a light source mounted on a hat with a buckle removably connecting the opposing ends of the belt.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 571-272-2373. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is 571-272-2815.

Y. Q.  
May 11, 2004



Y Quach Lee  
Patent Examiner  
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